

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2004-0423-PST-E TCEQ ID: RN102369162 CASE NO.: 14107
RESPONDENT NAME: DEER PARK BUSINESS, INC. DBA FUEL EXPO

Page 1 of 3

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 101 West San Augustine Street, Deer Park, Harris County</p> <p>TYPE OF OPERATION: Convenience store with an underground storage tank system</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 21, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p style="margin-left: 40px;">TCEQ Attorney: Mr. Jim Sallans, Litigation Division, MC 175, (512) 239-2053 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019</p> <p style="margin-left: 40px;">TCEQ Enforcement Coordinator: Ms. Elvia Maske, Waste Enforcement Section, MC 149, (512) 239-0789</p> <p style="margin-left: 40px;">TCEQ Regional Contact: Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623</p> <p style="margin-left: 40px;">Respondent: Mr. Ali N. Nizar, President, Deer Park Business, Inc. dba Fuel Expo, P.O. Box 741049, Houston, Texas 77274-1049</p> <p style="margin-left: 40px;">Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p> <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review </p> <p>Date of Complaints Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: July 29, 2003</p> <p>Date of NOE Relating to this Case: October 15, 2003</p> <p>Background Facts:</p> <p>The EDPRP was filed on December 7, 2004 and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating the respondent received notice of the EDPRP.</p> <p>The EDFARP was filed and sent to the Respondent at its last known address on November 21, 2005, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDFARP on or about December 2, 2005, as evidence by the signature on the card.</p> <p>The EDSARP was filed on May 4, 2006, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDSARP on or about May 15, 2006, as evidence by the signature on the card.</p> <p>The EDTARP was filed on August 13, 2007, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDTARP on or about August 17, 2007, as evidence by the signature on the card.</p> <p>The Respondent failed to file an answer to the EDPRP, the EDFARP, the EDSARP, or the EDTARP.</p>	<p>Total Assessed: \$7,000</p> <p>Total Deferred: \$0</p> <p> <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset </p> <p>Total Due to General Revenue: \$7,000</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor </p> <p>Person Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor </p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that Deer Park implemented the following corrective actions.</p> <ol style="list-style-type: none"> Submitted on October 15, 2003, a UST Registration and Self Certification form for the Registration of the two USTs at the Facility Received Delivery Certificate for the USTs to allow for the delivery of a regulated substance on October 24, 2003; Submitted a receipt on October 27, 2003, demonstrating installation of overfill protection equipment was installed on tank 2B, and documentation demonstrating that the super and unleaded fuel tanks (1A and 2A) contain ball floats for overfill prevention; and Submitted documentation dated October 14, 2003, demonstrating that the tanks at the Facility are made of steel coated with composite fiberglass for corrosion protection. <p>Ordering Provisions:</p> <p>The Respondent's UST delivery certificate is revoked immediately upon the effective date of this Order. The Respondent may submit an application for a new delivery certificate only after the Respondent has complied with all of the requirements of this Order.</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Immediately, develop and begin maintaining the required UST records at the Facility. Within 10 days, send its UST delivery certificate to TCEQ. Within 15 days: <ol style="list-style-type: none"> Submit a written certification of compliance with Ordering Provision No. 1. Within 60 days submit a written owner certification or installer certification certifying that the UST system was installed in compliance with the Installation Standards for New UST Systems.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>PST:</p> <p>1. Failed to make available to a common carrier a valid, current delivery certificate for the UST before accepting delivery of a regulated substance [TEX. WATER CODE § 26.3467(a) and 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i)].</p> <p>2. Failed to ensure that the UST registration and Self-Certification Form, which is fully and accurately completed, is submitted to the Agency, in a timely manner and failed to register the new or replacement UST within 30 days after the date a regulated substance is placed into the tank [30 TEX. ADMIN. CODES §§ 334.8(c)(3) and (4), and 337.7(a),(c) and (e)].</p> <p>3. Failed to file a written notification form with the TCEQ at least 30 days prior to installing a major UST construction activity [30 TEX. ADMIN. CODE § 334.6(b)(2)(A)].</p> <p>4. Failed to develop and maintain required UST records at the facility. Specifically, there were no records to demonstrate the type of overfill protection installed for the UST and Statistical Inventory Reconciliation (SIR) records [30 TEX. ADMIN. CODE § 334.10 (b)].</p> <p>5. Failed to equip tank 2B (containing diesel fuel) with overfill protection equipment [30 TEX. ADMIN. CODE § 334.51(b)(2)(C) and TEX. WATER CODE § 26.3475(c)(2)].</p>		



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (09/02)

PCW Revision 2/10/2004

DATES		PCW 1-Jul-2004	Screening 29-Mar-2004	Priority Due 28-May-2004	EPA Due
RESPONDENT INFORMATION					
Respondent Deer Park Business, Inc., dba Fuel Expo					
Respondent/Site ID No(s) PST Facility ID No. 35149; RN102369162					
Facility/Site Region 12 - Houston				Major/Minor Source Minor	
CASE INFORMATION					
Enf./Case ID No(s) CCEDS Enf. ID No. 14107					
Docket No. 2004-0423-PST-E				No. Violations 5	
Case Priority 2				Order Type 1660	
Enf. Coordinator Elvia Maske				EC's Team Enforcement Team 6	
Media Program(s) Petroleum Storage Tank					
Admin. Penalty \$ Limit		Minimum \$0	Maximum \$10,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$7,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History -10% Reduction **Subtotals 2, 3 & 7** -\$700

Notes: No enhancement is recommended because Respondent has not received a prior Notice of Violation (NOV). A reduction is recommended for high performance. +

Culpability 0% Enhancement **Subtotal 4** \$0

Notes: Does not meet culpability criteria. +

Good Faith Effort to Comply 0% Reduction **Subtotal 5** \$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
None of the above	X	(mark with small x)

Notes: Respondent is still not in complete compliance. +

Economic Benefit 0% Enhancement* **Subtotal 6** \$0

\$157	Total EB Amounts	*Capped at the Total EB \$ Amount
\$900	Approx. Cost of Compliance	=

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$6,300

OTHER FACTORS AS JUSTICE MAY REQUIRE 11% Enhancement **Adjustment** \$700

Reduces or enhances the Final Subtotal by the indicated percentage. (enter number only; e.g. -30 for -30%)

Notes: Because this is a Default Order, the Executive Director recommends an upward adjustment to offset the reduction for compliance history. =

Final Penalty Amount \$7,000

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$7,000

DEFERRAL Deferral 0% Reduction **Adjustment** \$0

Reduces the Final Assessed Penalty by the indicated percentage. (enter number only; e.g. 20 for 20% reduction)

Notes: No deferral is recommended because the settlement termination period has expired. =

PAYABLE PENALTY \$7,000

Screening Date	29-Mar-2004	Docket Number	2004-0423-PST-E	PCW
Respondent	Deer Park Business, Inc., dba Fuel Expo			Policy Revision 2 (09/02)
Case ID No.	CCEDS Enf. ID No. 14107			PCW Revision 2/10/2004
Respondent/Site ID No.	PST Facility ID No. 35149; RN102369162			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Elvia Maske			
Site Address	101 West San Augustine Street, Deer Park, Harris County			

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action <i>(number of NOV's meeting criteria)</i>	0	0%
	Other written NOV's	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Please enter Yes or No

1

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No ☐ Select Yes/No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer ☐ Select High, Average or Poor

Adjustment Percentage (Subtotal 7) -10%

Compliance History Summary

Compliance
History
Notes

No enhancement is recommended because Respondent has not received a prior Notice of Violation (NOV). A reduction is recommended for high performance.

Total Adjustment Percentage (Subtotals 2, 3 & 7) -10%

Screening Date	29-Mar-04	Docket Number	2004-0423-PST-E	PCW
Respondent	Deer Park Business, Inc., dba Fuel Expo			Policy Revision 2 (09/02)
Case ID No.	CCEDS Enf. ID No. 14107			PCW Revision 2/10/2004
Respondent/Site ID No.	PST Facility ID No. 35149; RN102369162			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Elvia Maske			
Violation Number	<input type="text" value="1"/>			
Primary Rule Cite	<input type="text" value="30 Tex. Admin. Code § 334.8(c)(5)(A)(i)"/>			
Secondary Cite(s)	<input type="text" value="Tex. Water Code § 26.3467(a)"/>			
Violation Description	<input type="text" value="Failed to make available to a common carrier a valid, current delivery certificate for the underground storage tank before accepting delivery of a regulated substance. At the time of the investigation, the respondent did not have a delivery certificate for the deliveries made on July 9, July 18, July 21 and July 23, 2003."/>			

Base Penalty

» Environmental, Property and Human Health Matrix

		Harm			
	Release	Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>	Percent <input type="text" value="5%"/>

» Programmatic Matrix

	Falsification	Major	Moderate	Minor	
OR	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>

Matrix Notes

Adjustment Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one; use small x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

Events Notes

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) Violation Final Penalty total This Violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet**Respondent** Deer Park Business, Inc., dba Fuel Expo**ID Number(s)** CCEDS Enf. ID No. 14107**Media [Statute]** Petroleum Storage Tank**Violation Number** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)	\$50	9-Jul-2003	24-Oct-2003	0.3	\$0	\$1	\$1
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit a complete certification form to the TCEQ.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance \$50

TOTAL \$1

Screening Date 29-Mar-04	Docket Number 2004-0423-PST-E	PCW
Respondent Deer Park Business, Inc., dba Fuel Expo		Policy Revision 2 (09/02)
Case ID No. CCEDS Enf. ID No. 14107		PCW Revision 2/10/2004
Respondent/Site ID No. PST Facility ID No. 35149; RN102369162		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Elvia Maske		
Violation Number	2	
Primary Rule Cite	30 Tex. Admin. Code § 334.8(c)(3) and (4)	
Secondary Cite(s)	30 Tex. Admin. Code § 334.7(a), (c) and (e)	
Violation Description	<p>The respondent failed to ensure that a UST registration and self-certification form, which is fully and accurately completed, is submitted to the agency, in a timely manner, to register the underground storage tanks (USTs) with the Commission. Failed to register the new or replacement UST within 30 days after the date a regulated substance is placed into the tank. The first documented delivery date of a regulated substance is July 9, 2003.</p>	
Base Penalty		\$10,000
» Environmental, Property and Human Health Matrix		
Harm		
	Release	Major Moderate Minor
OR	Actual	<input type="text"/> <input type="text"/> <input type="text"/>
	Potential	<input type="text"/> <input type="text"/> <input type="text"/>
Percent <input type="text"/>		
» Programmatic Matrix		
	Falsification	Major Moderate Minor
OR		<input type="text"/> <input checked="" type="text"/> <input type="text"/> <input type="text"/>
		<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
Percent <input type="text"/> 10%		
Matrix Notes	<div style="border: 1px solid black; padding: 5px;">The Respondent failed to meet 100% of the rule requirement.</div>	
Adjustment		-\$9,000
Base Penalty Subtotal		\$1,000
Violation Events		
Number of Violation Events		1
mark only one; use small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	x
Violation Base Penalty		\$1,000
Events Notes	<div style="border: 1px solid black; padding: 5px;">One single event is recommended based on documentation of the violation during the July 29, 2003 investigation.</div>	
Economic Benefit (EB) for this violation		Statutory Limit Test
Estimated EB Amount (\$) <input type="text"/> \$0		Violation Final Penalty total <input type="text"/> \$1,000
This Violation Final Assessed Penalty (adjusted for limits)		<input type="text"/> \$1,000

Economic Benefit Worksheet**Respondent** Deer Park Business, Inc., dba Fuel Expo**ID Number(s)** CCEDS Enf. ID No. 14107**Media [Statute]** Petroleum Storage Tank**Violation Number** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit is calculated in violation no. 1.

Avoided Costs**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costsApprox Cost of Compliance **TOTAL**

Screening Date	29-Mar-04	Docket Number	2004-0423-PST-E	PCW
Respondent	Deer Park Business, Inc., dba Fuel Expo	Policy Revision 2 (09/02)		
Case ID No.	CCEDS Enf. ID No. 14107	PCW Revision 2/10/2004		
Respondent/Site ID No.	PST Facility ID No. 35149; RN102369162			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Elvia Maske			
Violation Number	3			
Primary Rule Cite	30 Tex. Admin. Code § 334.6(b)(2)(A)			
Secondary Cite(s)				
Violation Description	Failure to file a written notification form with the TCEQ at least 30 days prior to initiating a major UST construction activity.			
			Base Penalty	\$10,000
» Environmental, Property and Human Health Matrix				
Harm				
	Release	Major	Moderate	Minor
OR	Actual			
	Potential			
Percent 				
» Programmatic Matrix				
	Falsification	Major	Moderate	Minor
OR		x		
	Percent 10%			
Matrix Notes	Failed to comply with 100% of the rule requirement.			
			Adjustment	-\$9,000
			Base Penalty Subtotal	\$1,000
Violation Events				
Number of Violation Events		1		
<i>mark only one; use small x</i>	daily			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event	x		
Violation Base Penalty \$1,000				
Events Notes	One single event is recommended based on documentation of the violation during the July 29, 2003 investigation.			
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount (\$) \$141		Violation Final Penalty total \$1,000		
This Violation Final Assessed Penalty (adjusted for limits)				\$1,000

Economic Benefit Worksheet

Respondent Deer Park Business, Inc., dba Fuel Expo

ID Number(s) CCEDS Enf. ID No. 14107

Media [Statute] Petroleum Storage Tank

Violation Number 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$100	29-Mar-2003	1-Aug-2004	1.3	\$7	\$135	\$141
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost of providing notification to the TCEQ of major construction activities at least 30 days prior to the installation of two USTs and associated piping which were installed on April 28, 2003. Dates are from 30 days prior to installation to the estimated date notification that the tanks were properly installed in accordance with requirements is provided to the agency.

Approx Cost of Compliance \$100

TOTAL

\$141

Screening Date 29-Mar-04		Docket Number 2004-0423-PST-E		PCW		
Respondent Deer Park Business, Inc., dba Fuel Expo		Policy Revision 2 (09/02)				
Case ID No. CCEDS Enf. ID No. 14107		PCW Revision 2/10/2004				
Respondent/Site ID No. PST Facility ID No. 35149; RN102369162						
Media [Statute] Petroleum Storage Tank						
Enf. Coordinator Elvia Maske						
Violation Number		<div style="border: 1px solid black; width: 100px; text-align: center;">4</div>				
Primary Rule Cite		<div style="border: 1px solid black; width: 100%; text-align: center;">30 Tex. Admin. Code § 334.10(b)</div>				
Secondary Cite(s)		<div style="border: 1px solid black; width: 100%; height: 20px;"></div>				
Violation Description		<div style="border: 1px solid black; padding: 5px;">Failure to develop and maintain required UST records at the facility. Specifically, during the investigation on July 29, 2003 there were no records to demonstrate the type of overfill and corrosion protection installed for the UST and Statistical Inventory Reconciliation (SIR) records.</div>				
				Base Penalty	<div style="border: 1px solid black; width: 100px; text-align: right;">\$10,000</div>	
» Environmental, Property and Human Health Matrix						
		Harm				
	Release	Major	Moderate	Minor		
OR	Actual	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>	Percent	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
	Potential	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>		
» Programmatic Matrix						
	Falsification	Major	Moderate	Minor		
OR	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>	<div style="border: 1px solid black; width: 100px; height: 20px; text-align: center;">x</div>	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>	Percent	<div style="border: 1px solid black; width: 100px; text-align: right;">5%</div>
Matrix Notes	<div style="border: 1px solid black; padding: 5px;">Failure to comply with 70% of the rule requirement.</div>					
				Adjustment	<div style="border: 1px solid black; width: 100px; text-align: right;">-\$9,500</div>	
				Base Penalty Subtotal	<div style="border: 1px solid black; width: 100px; text-align: right;">\$500</div>	
Violation Events						
Number of Violation Events		<div style="border: 1px solid black; width: 100px; text-align: center;">1</div>				
<i>mark only one; use small x</i>	daily	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>				
	monthly	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>				
	quarterly	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>				
	semiannual	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>				
	annual	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>				
	single event	<div style="border: 1px solid black; width: 100px; height: 20px; text-align: center;">x</div>				
				Violation Base Penalty	<div style="border: 1px solid black; width: 100px; text-align: right;">\$500</div>	
Events Notes	<div style="border: 1px solid black; padding: 5px;">One single event is recommended based upon the investigation conducted on July 29, 2003.</div>					
Economic Benefit (EB) for this violation			Statutory Limit Test			
Estimated EB Amount (\$)		<div style="border: 1px solid black; width: 100px; text-align: right;">\$5</div>	Violation Final Penalty total		<div style="border: 1px solid black; width: 100px; text-align: right;">\$500</div>	
This Violation Final Assessed Penalty (adjusted for limits)				<div style="border: 1px solid black; width: 100px; text-align: right;">\$500</div>		

Economic Benefit Worksheet**Respondent** Deer Park Business, Inc., dba Fuel Expo**ID Number(s)** CCEDS Enf. ID No. 14107**Media [Statute]** Petroleum Storage Tank**Violation Number** 4**Percent
Interest****Years of
Depreciation**

5.0

15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)	\$100	29-Jul-2003	1-Aug-2004	1.0	\$5	n/a	\$5

Notes for DELAYED costs

Estimated cost to maintain UST overfill, corrosion protection and SIR records.

Avoided Costs**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs**Approx Cost of Compliance** \$100**TOTAL** \$5

Screening Date 29-Mar-04		Docket Number 2004-0423-PST-E		PCW
Respondent Deer Park Business, Inc., dba Fuel Expo		Policy Revision 2 (09/02)		
Case ID No. CCEDS Enf. ID No. 14107		PCW Revision 2/10/2004		
Respondent/Site ID No. PST Facility ID No. 35149; RN102369162				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Elvia Maske				
Violation Number	<div style="border: 1px solid black; padding: 2px; text-align: center;">5</div>			
Primary Rule Cite	<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code § 334.51(b)(2)(C)</div>			
Secondary Cite(s)	<div style="border: 1px solid black; padding: 2px;">Tex. Water Code § 26.3475(c)(2)</div>			
Violation Description	<div style="border: 1px solid black; padding: 2px;">Failure to equip tank 2B (containing diesel fuel) with overfill prevention equipment.</div>			
Base Penalty				<div style="border: 1px solid black; padding: 2px;">\$10,000</div>
» Environmental, Property and Human Health Matrix				
Harm				
	Release	Major	Moderate	Minor
OR	Actual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>
	Potential	<div style="border: 1px solid black; padding: 2px;">x</div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>
Percent				<div style="border: 1px solid black; padding: 2px;">25%</div>
» Programmatic Matrix				
	Falsification	Major	Moderate	Minor
OR	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>
Percent				<div style="border: 1px solid black; width: 50px; height: 15px;"></div>
Matrix Notes	<div style="border: 1px solid black; padding: 5px;">Failure to provide overfill equipment for the UST system could cause human health or the environment to be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.</div>			
Adjustment				<div style="border: 1px solid black; padding: 2px;">-\$7,500</div>
Base Penalty Subtotal				<div style="border: 1px solid black; padding: 2px;">\$2,500</div>
Violation Events				
Number of Violation Events				<div style="border: 1px solid black; padding: 2px;">1</div>
mark only one; use small x	daily	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>		
	monthly	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>		
	quarterly	<div style="border: 1px solid black; padding: 2px;">x</div>		
	semiannual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>		
	annual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>		
	single event	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>		
Violation Base Penalty				<div style="border: 1px solid black; padding: 2px;">\$2,500</div>
Events Notes	<div style="border: 1px solid black; padding: 5px;">One quarterly event is recommended from the July 29, 2003 investigation to the date the Respondent installed overfill protection (October 24, 2003) as documented during a follow-up record review conducted on April 7, 2004 to make the penalty commensurate with the situation.</div>			
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount (\$)		<div style="border: 1px solid black; padding: 2px;">\$10</div>	Violation Final Penalty total	
			<div style="border: 1px solid black; padding: 2px;">\$2,500</div>	
This Violation Final Assessed Penalty (adjusted for limits)				<div style="border: 1px solid black; padding: 2px;">\$2,500</div>

Economic Benefit Worksheet**Respondent** Deer Park Business, Inc., dba Fuel Expo**ID Number(s)** CCEDS Enf. ID No. 14107**Media [Statute]** Petroleum Storage Tank**Violation Number** 5**Percent
Interest****Years of
Depreciation**

5.0

15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment	\$500	29-Jul-2003	24-Oct-2003	0.2	\$0	\$8	\$8
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)	\$150	29-Jul-2003	24-Oct-2003	0.2	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to install overfill drop tube, labor and associated costs.

Avoided Costs**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs**Approx Cost of Compliance** \$650**TOTAL**

\$10

Compliance History

Customer/Respondent/Owner-Operator:	CN601684020	Deer Park Business, Inc.	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN102369162	FUEL EXPO	Classification: HIGH	Site Rating: 0.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		35149	
Location:	101 W SAN AUGUSTINE ST, DEER PARK, TX, 77536		Rating Date: 9/1/2005 Repeat Violator: NO	
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	February 03, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	January 01, 2000 to December 30, 2005			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	N/A		Phone:	N/A

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period?	Yes
2. Has there been a (known) change in ownership of the site during the compliance period?	Yes
3. If Yes, who is the current owner?	Deer Park Business, Inc.
4. If Yes, who was/were the prior owner(s)?	DIAMOND SHAMROCK REFINING
5. When did the change(s) in ownership occur?	05/27/2003

Components (Multimedia) for the Site :

A.	Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
	N/A
B.	Any criminal convictions of the state of Texas and the federal government.
	N/A
C.	Chronic excessive emissions events.
	N/A
D.	The approval dates of investigations. (CCEDS Inv. Track. No.)
	1 05/29/2003 (61472)
	2 04/19/2004 (268687)
	3 10/15/2003 (149661)
E.	Written notices of violations (NOV). (CCEDS Inv. Track. No.)
	N/A
F.	Environmental audits.
	N/A
G.	Type of environmental management systems (EMSs).
	N/A
H.	Voluntary on-site compliance assessment dates.
	N/A
I.	Participation in a voluntary pollution reduction program.
	N/A
J.	Early compliance.
	N/A
Sites Outside of Texas	
	N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
DEER PARK BUSINESS, INC. DBA
FUEL EXPO,
RN102369162

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§
§
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§
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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

DEFAULT ORDER DOCKET NO. 2004-0423-PST-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Third Amended Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26, 30 Tex. Admin. Code chs. 70 and 334, and the rules of the TCEQ, which requests appropriate relief, including the revocation of the respondent's underground storage tank delivery certificate, the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Deer Park Business, Inc. dba Fuel Expo ("Deer Park").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Deer Park owns and operates a convenience store with an underground storage tank system located at 101 West San Augustine Street, Deer Park, Harris County, Texas (the "Facility").
2. Deer Park's underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Deer Park's USTs contain a regulated substance as defined in the rules of the Commission.
3. During an inspection on July 29, 2003, a Houston Regional Office investigator documented that Deer Park violated:
 - a. Failed to make available to a common carrier a valid, current delivery certificate for the UST before accepting delivery of a regulated substance. Deer Park did not have a delivery certificate for the deliveries made on July 9, July 18, July 21, and July 23, 2003;

- b. Failed to ensure that the UST registration and self-certification form, which is fully and accurately completed, is submitted to the Agency, in a timely manner, to register the UST with the Commission and failed to register the new or replacement UST within 30 days after the date a regulated substance is placed into the tank. Specifically, the UST was not registered prior to the delivery accepted on July 9, 2003;
 - c. Failed to file a written notification form with the TCEQ at least 30 days prior to initiating a major UST construction activity;
 - d. Failed to develop and maintain required UST records at the Facility. Specifically, during the investigation on July 29, 2003, there were no records to demonstrate the type of overfill and corrosion protection installed for the UST and Statistical Inventory Reconciliation (SIR) records; and
 - e. Failed to equip tank 2B (containing diesel fuel) with overfill prevention equipment.
- 4. Deer Park received notice of the violations on or about October 20, 2003.
 - 5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Deer Park Business, Inc. dba Fuel Expo" (the "EDPRP") in the TCEQ Chief Clerk's office on December 7, 2004.
 - 6. By letter dated December 7, 2004, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Deer Park with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Deer Park received notice of the EDPRP.
 - 7. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Deer Park Business, Inc. dba Fuel Expo" (the "EDFARP") in the TCEQ Chief Clerk's office on November 21, 2005.
 - 8. By letter dated November 21, 2005 sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Deer Park with notice of the

EDFARP. According to the return receipt "green card," Deer Park received notice of the EDFARP on or about December 2, 2005, as evidenced by the signature on the card.

9. The Executive Director filed the "Executive Director's Second Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Deer Park Business, Inc. dba Fuel Expo" (the "EDSARP") (titled "EDFARP") in the TCEQ Chief Clerk's office on May 4, 2006.
10. By letter dated May 4, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Deer Park with notice of the EDSARP. According to the return receipt "green card," Deer Park received notice of the EDSARP on or about May 15, 2006, as evidenced by the signature on the card.
11. The Executive Director filed the "Executive Director's Third Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Deer Park Business, Inc. dba Fuel Expo" (the "EDTARP") in the TCEQ Chief Clerk's office on August 13, 2007.
12. By letter dated August 13, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Deer Park with notice of the EDTARP. According to the return receipt "green card," Deer Park received notice of the EDTARP on or about August 17, 2007, as evidenced by the signature on the card.
13. More than 20 days have elapsed since Deer Park received notice of the EDPRP, EDFARP, the EDSARP, and the EDTARP provided by the Executive Director. Deer Park failed to file an answer to the EDPRP, the EDFARP, the EDSARP, or the EDTARP, failed to request a hearing, and failed to schedule a settlement conference.
14. In response to this enforcement action, the Executive Director recognizes that Deer Park implemented the following corrective actions:
 - a. Submitted on October 15, 2003, a UST Registration and Self Certification form for the Registration of the two USTs at the Facility
 - b. Received Delivery Certificate for the USTs to allow for the delivery of a regulated substance on October 24, 2003;
 - c. Submitted a receipt on October 27, 2003, demonstrating installation of overfill

protection equipment was installed on tank 2B, and documentation demonstrating that the super and unleaded fuel tanks (1A and 2A) contain ball floats for overfill prevention; and

- d. Submitted documentation dated October 14, 2003, demonstrating that the tanks at the Facility are made of steel coated with composite fiberglass for corrosion protection.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Deer Park is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Deer Park failed to make available to a common carrier a valid, current delivery certificate for the UST before accepting delivery of a regulated substance. Deer Park did not have a delivery certificate for the deliveries made on July 9, July 18, July 21, and July 23, 2003, in violation of TEX. WATER CODE § 26.3467(a) and 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i).
3. As evidenced by Finding of Fact No. 3.b., Deer Park failed to ensure that the UST registration and self-certification form, which is fully and accurately completed, is submitted to the Agency, in a timely manner, to register the UST with the Commission, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(3) and (4), and Deer Park failed to register the new or replacement UST within 30 days after the date a regulated substance is placed into the tank. Specifically, the UST was not registered prior to the delivery accepted on July 9, 2003, in violation of 30, TEX. ADMIN. CODE § 334.7(a), (c) and (e).
5. As evidenced by Finding of Fact No. 3.c., Deer Park failed to file a written notification form with the TCEQ at least 30 days prior to initiating a major UST construction activity, in violation of 30 TEX. ADMIN. CODE § 334.6(b)(2)(A).
6. As evidenced by Finding of Fact No. 3.d., Deer Park failed to develop and maintain required UST records at the Facility. Specifically, during the investigation on July 29, 2003, there were no records to demonstrate the type of overfill and corrosion protection installed for the UST and Statistical Inventory Reconciliation (SIR) records, in violation of 30 TEX. ADMIN. CODE § 334.10(b).
7. As evidenced by Finding of Fact No. 3.e., Deer Park failed to equip tank 2B (containing diesel fuel) with overfill prevention equipment, in violation of TEX. WATER CODE § 26.3475(c)(2) and 30 TEX. ADMIN. CODE § 334.51(b)(2)(C).

8. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served Deer Park with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
9. As evidenced by Finding of Fact Nos. 7 and 8, the Executive Director has timely served Deer Park with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
10. As evidenced by Finding of Fact Nos. 9 and 10, the Executive Director has timely served Deer Park with proper notice of the EDSARP (titled "EDFARP"), as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
11. As evidenced by Finding of Fact Nos. 11 and 12, the Executive Director has timely served Deer Park with proper notice of the EDTARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
12. As evidenced by Finding of Fact No. 13, Deer Park has failed to file a timely answer to the EDPRP, the EDFARP, the EDSARP, or the EDTARP as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Deer Park and assess the penalty recommended by the Executive Director.
13. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Deer Park for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
14. An administrative penalty in the amount of seven thousand dollars (\$7,000.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
15. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.
16. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke Deer Park's UST delivery certificate if the Commission finds that good cause exists.

17. Good cause for revocation of Deer Park 's UST delivery certificate exists as justified by Findings of Fact Nos. 3, 5, 6, 7, 8, 9, 10, 11, 12, and 13 and Conclusions of Law Nos. 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Deer Park is assessed an administrative penalty in the amount of seven thousand dollars (\$7,000.00) for violations of TEX. WATER CODE chs. 7 and 26 and rules of the TCEQ. The payment of this administrative penalty and Deer Park's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Deer Park Business, Inc. dba Fuel Expo; Docket No. 2004-0423-PST-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Deer Park 's UST delivery certificate is revoked immediately upon the effective date of this Order. Deer Park may submit an application for a new delivery certificate only after Deer Park has complied with all of the requirements of this Order.
3. Within 10 days after the effective date of this Order, Deer Park shall send its UST delivery certificate to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P. O. Box 13087
Austin, Texas 78711-3087

4. Deer Park shall undertake the following technical requirements:

- a. Immediately upon the effective date of this Order, Deer Park shall develop and begin maintaining required UST records at the Facility. Specifically, Deer Park shall begin compiling and maintaining SIR records, in accordance with 30 TEX. ADMIN. CODE § 334.10(b).
- b. Within 15 days after the effective date of this Order, Deer Park shall submit a written certification of compliance with Ordering Provision No. 4.a.
- c. Within 60 days after the effective date of the Commission Order, Deer Park shall submit a written owner certification or installer certification certifying that the UST system was installed in compliance with the Installation Standards for New UST Systems, in accordance with 30 TEX. ADMIN. CODE § 334.8(a)(1).
- d. Deer Park shall submit all correspondence, reports, and documentation required by these Ordering Provisions.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and

Nicole Bealle, Waste Section Manager
Texas Commission on Environmental Quality
Houston Regional Office
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

5. All relief not expressly granted in this Order is denied.
6. The provisions of this Order shall apply to and be binding upon Deer Park. Deer Park is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Deer Park shall be made in writing to the Executive Director. Extensions are not effective until Deer Park receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Deer Park if the Executive Director determines that Deer Park has not complied with one or more of the terms or conditions in this Order.
9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF JIM SALLANS

STATE OF TEXAS §
 §
COUNTY OF TAVIS §

"My name is Jim Sallans. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

The Executive Director of the Texas Commission on Environmental Quality filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Deer Park Business, Inc. dba Fuel Expo" (the "EDPRP") with the Office of the Chief Clerk on December 7, 2004.

The EDPRP was sent to Deer Park at its last known address on December 7, 2004 via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating the respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

The Executive Director of the Texas Commission on Environmental Quality filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Deer Park Business, Inc. dba Fuel Expo" (the "EDFARP") with the Office of the Chief Clerk on November 21, 2005.

The EDFARP was sent to Deer Park at its last known address on November 21, 2005, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Deer Park received notice of the EDFARP on or about December 2, 2005, as evidenced by the signature on the card.

The Executive Director of the Texas Commission on Environmental Quality filed the "Executive Director's Second Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Deer Park Business, Inc. dba Fuel Expo" (the "EDSARP") (titled "EDFARP") with the Office of the Chief Clerk on May 4, 2006.

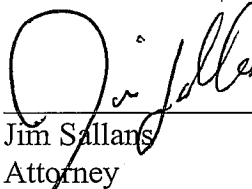
The EDSARP was sent to Deer Park at its last known address on May 4, 2006, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return

receipt "green card," Deer Park received notice of the EDSARP on or about May 15, 2006, as evidenced by the signature on the card.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the "Executive Director's Third Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Deer Park Business, Inc. dba Fuel Expo" (the "EDTARP") with the Office of the Chief Clerk on August 13, 2007.

I sent the EDTARP to Deer Park at its last known address on August 13, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Deer Park received notice of the EDTARP on or about August 17, 2007, as evidenced by the signature on the card.

More than 20 days have elapsed since Deer Park received notice of the EDPRP, the EDFARP, the EDSARP, and the EDTARP. Deer Park failed to file an answer to the EDPRP, the EDFARP, the EDSARP, or the EDTARP, failed to request a hearing, and failed to schedule a settlement conference."



Jim Sallans
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jim Sallans, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 20th day of August, A.D., 2008.

